

Order

Michigan Supreme Court
Lansing, Michigan

May 17, 2006

Clifford W. Taylor,
Chief Justice

129761

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

K & K CONSTRUCTION, INC., and J.F.K.
INVESTMENT COMPANY, L.L.C.,
Plaintiffs-Appellants,

v

SC: 129761
COA: 244455
Court of Claims: 88-012120-CM

DEPARTMENT OF ENVIRONMENTAL
QUALITY,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the July 26, 2005 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

TAYLOR, C.J., not participating.

KELLY, J., would grant leave to appeal.

MARKMAN, J., would grant leave to appeal in order to further consider the Court of Appeals application of the “average reciprocity of advantage” factor from *Penn Central Transportation Co v City of New York*, 438 US 104 (1978).



t0510

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 17, 2006

Corbin R. Davis

Clerk